

REMARKS

The Office Action mailed October 8, 2009 (hereinafter, “Office Action”) has been reviewed and the Examiner’s comments considered. Claims 1-29 are pending in this application, with claims 2-3, 5-6, and 15 withdrawn from consideration. Claim 1 is amended herein to incorporate subject matter from claim 11, which is hereby canceled without prejudice. Claims 12-14 are also amended herein. Claim 30 is added, support for which may be found in the originally filed application at, for example, the paragraph bridging pages 10 and 11. Applicants submit that no new subject matter has been added.

Claim Rejections – 35 U.S.C. § 102 / § 103

Claims 1, 4, 7-10, 13, 14, 16, 18, 21, 23, 25, and 27-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US Pub. No. 2002/0183826 to Dorn et al. (hereinafter, “Dorn”). Claims 17, 22, 24, and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dorn. Claims 1, 4, 7, 11, 12, 19, and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0058963 to Vale et al. in view of Dorn. Applicants respectfully traverse these rejections.

Independent claim 1 is amended herein to incorporate the subject matter of dependent claim 11, including the “annular distender ring and frusto-conical annular element co-axial with said distender ring, the annular element positioned proximal of the distender ring with its larger diameter end contiguous therewith.” Accordingly, the anticipation rejection of claim 1, and claims 4, 7-10, 13-14, and 16 depending therefrom, as anticipated by Dorn is moot.

The Office Action alleges with respect to the obviousness rejection of claim 11 that Vale discloses a retrieval catheter with an annular element co-axial with said distender ring by referring to annotated FIG. 19. The asserted annular distender ring is generally indicated as the distal end 50 of the centering catheter 11, while the asserted frusto-conical annular element is indicated as the transition between the centering catheter 11 and the distal end 50.

Referring to FIG. 19, Vale shows and describes a retrieval device 41 comprising a guide catheter 60 and a centering catheter 11. “The distal end 50 of the centering catheter 11 [is] in the shape of an arrowhead [and] is sized to match the outer diameter of the guide catheter 60. This ensures a smooth, step-free transition between the centering catheter 11 and the guide catheter 60.” (Vale, ¶ 0091].) As shown and described, the asserted distender does not include a ring, but an arrowhead shaped distal end to the catheter. “Ring” is defined as a circular line, figure, or object. (“Ring,” Merriam Webster On-Line Dictionary, <http://www.merriam-webster.com/dictionary/RING>). The radially increasing and decreasing catheter tube of Vale does not show or describe a ring as claimed.

Regarding the rejections of dependent claims 2-10, and 12-17 in view of the combinations set forth above, Applicants submit that each claim depends from patentable independent claim 1 in view of the above. Therefore, without conceding the propriety of the asserted rejections, Applicants request favorable reconsideration and withdrawal of the rejections of these claims under 35 U.S.C. §§ 102 and 103.

New dependent claim 30 is also believed to be patentable at least because it depends from patentable independent claim in view of the above. Accordingly, Applicants request favorable consideration and allowance of this claim.

Independent claim 18 recites, *inter alia*, “a distender . . . including a generally tubular body having a lumen and an annular element positioned about an outer surface of the body.”

The Office asserts that Dorn discloses a retrieval catheter including a distender (56) having a distal end annulus and a proximal end annulus referring to FIGS. 2a-2d. The Office fails to specifically point out what features of Dorn allegedly constitute the features of the tubular body and an annular element positioned about an outer surface of the body of the distender, only generally indicating the distender as element 56. Upon careful review, Applicants are unable to locate at least the feature of an annular element positioned about an outer surface of the body. Accordingly, Applicants submit that Dorn does not anticipate independent claim 18.

Dorn shows and describes a system for delivering a self-expanding stent to a stenting site. (Dorn, Abstract). The asserted distender, element 56, is described as inner shaft 56. The proximal end of the inner shaft 56, the shaft receives the distal tip of a metal pusher rod 64. (Dorn, ¶ [0072]). As seen in FIGS. 2a-2d, the asserted distender does not include an annular element positioned about an outer surface of the body, but is merely an inner catheter tube. Thus, Dorn fails to anticipate independent claim 18.

With respect to dependent claim 19, the Office alleges it is obvious over Vale in view of Dorn. The Office does not find independent claim 18 obvious over Vale, and thus dependent claim 19 is patentable at least because it depends from a patentable independent claim 18, in view of the above. Further, Vale fails to show or describe the missing features of independent claim 18 including the annular element positioned about an outer surface of the body. Moreover, both Vale and Dorn further fail to show or describe the return cone as recited in dependent claim 19. Accordingly, Applicants submit that dependent claim 19 is patentable over the Vale/Dorn references alone or in combination.

Regarding the rejections of dependent claims 20-28 in view of the combinations set forth above, Applicants submit that each claim depends from patentable independent claim 18 in view of the above. Therefore, without conceding the propriety of the asserted rejections, Applicants request favorable reconsideration and withdrawal of the rejections of these claims under 35 U.S.C. §§ 102 and 103.

Independent claim 29 recites, *inter alia*, “A method for retrieving a medical device, comprising: . . . pulling at least a proximal portion of the medical device into a lumen of the body.”

The Office asserts that Dorn discloses a retrieval catheter. The Office fails to specifically point out what features of Dorn allegedly constitute the features of the method of independent claim 29. Upon careful review, Applicants are unable to locate at least the feature of pulling at least a proximal portion of the medical device into a lumen of the body. Accordingly, Applicants submit that Dorn does not anticipate independent claim 29.

In contradistinction to Dorn, Applicants claim a “method for retrieving a medical device.” Referring to FIGS. 1-3 of the Instant Application, one potential example of the method includes positioning the retrieval catheter adjacent a medical device in a bodily lumen; moving at least a portion of the distender distal of the distal tip, the annular element distending the distal tip; and pulling at least a proximal portion of the medical device into a lumen of the body.

Dorn discloses a system for *delivering* a self-expanding stent to a stenting site within the body. (Dorn, Abstract). Dorn fails to show or describe *retrieval* of any medical device. Specifically, Dorn shows and describes a catheter which receives a stent at its proximal end and guides it to the stent site. A stent pusher is used to abut the proximal end of the stent inside the catheter to push the stent out the distal end of the catheter. (Dorn, ¶ [0063]). The system of Dorn does not provide any mechanism to pull a medical device into the distal end of the catheter, once it is in a bodily lumen. Thus, Dorn fails to anticipate independent claim 29. Accordingly, Applicants respectfully request favorable reconsideration and withdrawal of the rejection of this claim under 35 U.S.C. §§ 102.

In view of the above, Applicants submit that the asserted combination of Dorn and/or Vale do not establish a *prima facie* case of anticipation or obviousness. Accordingly, independent claims 1, 18, and 29, along with dependent claims 2-10, 12-17, 19-28, and 30 depending therefrom, are patentable over the asserted combinations, and Applicants request favorable reconsideration and withdrawal of this rejections under 35 U.S.C. §§ 102/103.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

It is noted that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between the cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein should not be construed to prejudice or foreclose future consideration by Applicants of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner and/or the merits of additional or alternative arguments.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2191, under Order No. 101671.0013P from which the undersigned is authorized to draw.

Dated: January 8, 2010

Respectfully submitted,

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